

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FOX VALLEY CONSTRUCTION)	
WORKERS FRINGE BENEFIT FUNDS,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION
)	
CONCRETE BY FLEMING, INC.,)	NO. 08 C 4565
an Illinois corporation,)	
)	JUDGE WAYNE R. ANDERSEN
Defendant,)	
)	
and)	
)	
REGENT TITLE INSURANCE AGENCY,)	
LLC,)	
)	
Citation Respondent.)	

**MOTION FOR CONDITIONAL JUDGMENT
AGAINST REGENT TITLE INSURANCE AGENCY, LLC**

Plaintiffs, Fox Valley Construction Workers Fringe Benefit Funds, *et al.* (“Plaintiffs” or “Funds”), by and through their attorneys, hereby move for entry of a conditional judgment pursuant to Rule 69(a) of the Federal Rules of Civil Procedure, against Third-Party Citation Respondent, Regent Title Insurance Agency, LLC (“Regent”), for its failure to answer or otherwise comply with the Citation to Discover Assets served upon it on November 2, 2009. In support of their Motion, Plaintiffs state as follows:

1. On October 24, 2008, the Court entered judgment against Defendant, Concrete by Fleming, Inc., in the total amount of \$12,969.47. Plaintiffs have received payments totaling \$3,000.00 from Defendant, leaving a principal balance of \$9,969.47 due on the judgment. In

addition, Plaintiffs are entitled to recover post-judgment interest of \$213.57 (calculated through November 30, 2009), for a total of \$10,182.84.

2. In an effort to collect the judgment balance, Plaintiffs served a Third-Party Citation to Discover Assets on the Registered Agent for Regent on November 2, 2009. A true and correct copy of the Third Party Citation to Discover Assets and Affidavit of Service are attached hereto as Exhibit A.

3. The Third Party Citation served on Regent required it to answer the Citation by December 8, 2009. On December 15, 2009, after receiving no response to the Citation from Regent, Plaintiffs' counsel sent a letter to the Registered Agent for Regent advising that Plaintiffs would seek to enforce the Citation if an answer was not received within fourteen days of the date of the letter. A true and correct copy of Plaintiffs' counsel's December 15, 2009 letter is attached hereto as Exhibit B.

4. Pursuant to Rule 69(a) of the Federal Rules of Civil Procedure, federal courts adopt the practice and procedure of the state in which the district court sits in preceding supplementary to and in aid of a judgment.

5. Under Illinois law, the Court may enter a conditional judgment against a Third Party Citation Respondent for the balance due on a judgment if the respondent fails to appear and answer, and further issue a summons to the respondent commanding the respondent to appear and show cause as to why the judgment should not be made final. 735 ILCS 5/2-1402(c)(4); 735 ILCS 5/2-706 (attached as Exhibits C and D, respectively).

As Citation Respondent, Regent Title Insurance Agency, LLC, has failed to answer or otherwise respond to the Third Party Citation served upon it, despite subsequent notice from Plaintiffs' counsel, Plaintiffs respectfully request that this Court enter a Conditional Judgment in favor of the Plaintiffs and against Regent Title Insurance Agency, LLC, in the total amount of

\$10,182.84, and issue a summons ordering Regent Title Insurance Agency, LLC, to appear on a date certain to show cause as to why the judgment against it should not be made final.

Respectfully submitted,

/s/ Patrick N. Ryan

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that he electronically filed the foregoing document, **Motion for Conditional Judgment Against Regent Title Insurance Agency, LLC**, with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participants on or before the hour of 5:00 p.m. this 10th day of February 2010:

Mr. Tim Fleming
Concrete by Fleming
P.O. Box 298
Minooka, IL 60447

Regent Title Insurance Agency, LLC
c/o Michael S. Roberts, Registered Agent
55 W. Monroe Street, Suite 1700
Chicago, IL 60603-5125

/s/ Patrick N. Ryan _____

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